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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR   | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/030,861      | 05/21/2002  | Terence Arnold Waldock | THOM-0019           | 8806             |

23377 7590 02/17/2005

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| EXAMINER |
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THALER, MICHAEL H

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| ART UNIT | PAPER NUMBER |
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3731

DATE MAILED: 02/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/030,861

Applicant(s)

WALDOCK, TERENCE ARNOLD

Examiner

Michael Thaler

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 8-10 is/are rejected.
- 7) ☒ Claim(s) 6, 7, 11 and 12 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |  |
|--|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>6/18/02</u> . | 6) <input type="checkbox"/> Other: ____  |

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Claims 6, 7, 11 and 12 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend from any other multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claims 6, 7, 11 and 12 have not been further treated on the merits.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5 and 8 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Eagles et al. (5,620,450). Eagles et al. disclose body portion 12, nose portion 14, push rod means 18, and means defining a passageway therethrough which has a configuration which includes a smoothly continuous undulating surface (14f,

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14g, 14h 14k, 14l). Alternatively, it would have been obvious that the surface (14f, 14g, 14h 14k, 14l) is a smoothly continuous undulating surface since the surface undulates up and down in a generally smooth manner. As to claim 2, Eagles et al. disclose insert 22. As to claim 3, Eagles et al. disclose forwardly projecting portion (100a, 102a). As to claim 4, Eagles et al. disclose ribs (114k, 114l) which are at the bottom of the passageway when the instrument is appropriately oriented. As to claim 5, Eagles et al. disclose depression 114g between the ribs and depressions 114f, 114h at the outside of each rib. As to claim 8, Eagles et al. disclose recess 114g and shoulders (114k, 114l).

Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eagles et al. (5,620,450). As to claim 9, Eagles et al. fail to disclose the recess reducing in depth and width in the direction away from the push rod means. However, it is old and well known in this art to so shape a recess in a lens injecting instrument in order to obtain the advantage of providing a smooth passageway for the lens. It would have been obvious to so shape the Eagles et al. recess so that it too would have this advantage. As to claim 10, Eagles et al. fail to disclose means to locate a pair of forceps. However, it is old and well known in this art to include such a

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means in a lens injecting instrument in order to obtain the advantage of quickly and accurately positioning the forceps. It would have been obvious to include such means on the Eagles et al. instrument so that it too would have this advantage.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Thaler whose telephone number is (571)272-4704. The examiner can normally be reached Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan T. Nguyen can be reached on (571)272-4963. The fax phone number for the organization where this application or proceeding is assigned is (703)872-9306.

mht  
2/15/05



MICHAEL THALER  
PRIMARY EXAMINER  
ART UNIT 3731